REPORT

OF THE

TRIAL

HAD BEFORE THE

RT. HON. ARTHUR, LORD KILWARDEN,
Chief Juſtice of his Majeſty's Court of King's Bench,

ON *TUESDAY* THE 2ND DAY OF *DECEMBER*, 1800,

BETWEEN

ROBERT TIGHE, Eſq. M. P.
PLAINTIFF,

AND

DIVE JONES, Eſq.
CAPTAIN IN THE 54th REGIMENT OF FOOT,
DEFENDANT,

FOR

CRIM. CON.

WITH

ESTHER FRANCES TIGHE, OTHERWISE WADE,
THE WIFE OF SAID ROBERT TIGHE.

WHEN A VERDICT WAS FOUND FOR

£10,000 DAMAGES.

TAKEN IN SHORT HAND BY A GENTLEMAN CONCERNED IN THE SUIT.

DUBLIN:
PRINTED BY WILLIAM FOLDS, No. 38, GT. STRAND-STREET,
FOR THE EDITOR.

1800.

Rec. Jan. 19, 1906.

ADVERTISEMENT.

IN the following Sheets the Public are preſented with a genuine Report of the TRIAL alluded to in the Title-page; which, for importance, the intereſt it has excited, and as diſcloſing ſcenes peculiarly marked with the ſtrongeſt features of profligate and depraved ſeduction, has perhaps never been exceeded.—We ſincerely hope, that the ſevere and exemplary puniſhment with which it has in this inſtance been received by the able, moral, and highly meritorious charge of an upright and learned Judge, added to the virtuous Verdict of an honeſt Jury, may aſſiſt in ſtemming the torrent of a Vice, monſtrous and deſtructive, and which we cannot ſufficiently lament has, of late, even in this country, but too frequently broken in upon the peace of ſociety.

A

REPORT,

&c. &c.

THE Court having diſpoſed of two records, at half-after Eleven in the morning proceeded to the tryal of this action, for which the following Jury were then ſworn:

NAMES OF THE JURY.

Benjamin Clarke, jun. Foreman,	George Salmon,
Thomas Dillon,	John Mack,
David Hinchy,	John Scott,
Richard Smith,	Francis Dempſey,
Thomas M'Donnell,	Robert Grierſon,
Richard Goodin,	George Beauman.

Mr. CURRAN, Mr. VAVASOUR,
Mr. BARRINGTON, Mr. ESPINASSE,
Mr. A. MOORE, Mr. RIDGEWAY,
Counſel for the Plaintiff.
Agent, CHARLES BURY, Eſq.

Mr. PONSONBY, Mr. PLUNKET,
Mr. BURROUGHS, Mr. BUSHE,
Counſel for the Defendant.
Agent, JOHN SCOTT, Eſq.

Mr.

Mr. RIDGEWAY then opened the Plaintiff's

DECLARATION.

Co. of the City of Dublin, to wit, } ROBERT TIGHE, Esq. complains against DIVE JONES, Esq. in the custody of the Marshall of the Marshalsea of our Sovereign Lord the King, before the King himself, of a plea of trespass with force and arms, for that the said DIVE JONES on the 1st day of August, in the 39th year of the said Lord the now King, with force and arms at Castle-street, in the County of the City of Dublin aforesaid, on ESTHER FRANCES TIGHE, otherwise WADE, the wife of the said ROBERT, did make an assault, and her the said ESTHER FRANCES did then and there ravish, embrace, and carnally know, whereby the said ROBERT lost and was deprived of the comfort and society of his said wife, and other outrages and injuries the said DIVE JONES to the said ROBERT then and there did to the damage of the said ROBERT of £20,000 sterling, and therefore he brings his suit and so forth.

To this declaration the defendant pleaded the general issue of Not Guilty.

Mr. CURRAN then rose, and in language which we are not ashamed to confess our inability to follow, proceeded to state the Plaintiff's case to the following effect:

My Lord and Gentlemen of the Jury,

In this case, which my learned coadjutor has told you is an action for the greatest of all possible injuries one man can possibly inflict on his fellow, the seduction of a beloved wife, the contamination of her

her body and mind, or what is modernly termed "Criminal Converſation," I am counſel for the Plaintiff—I am counſel for that unhappy man who has lived to be the object, to be the prey, of the moſt unprincipled, abandoned, licentious, and unparalelled proflicacy, that perhaps ever called forth the chaſtiſement of a court and of a jury ſitting in the adminiſtration of the law. Gentlemen of the jury, this is an action brought to recover damages for a criminal converſation with the wife of my client—if indeed any damages in pounds, ſhillings, and pence, can render him compenſation for the loſs, the ruin, the infamy, the irreparable diſgrace of a young, virtuous, beautiful and affectionate wife—of education the moſt refined, of manners the moſt poliſhed.

Gentlemen, it becomes neceſſary that I ſhould introduce to your notice the parties whoſe conduct is to conſtitute the enquiry of this day.

Robert Tighe, of South-hill, in the county of Weſtmeath, Eſq. a young man of moſt reſpectable family, character, and connections, poſſeſſing eſtates of upwards of 1600l. a-year, with a place of 800l. a year; formed, at a very early period, an honourable attachment for that wretched woman, whoſe name has been already announccd to you—wretched did I ſay—ah! no—Gentlemen, ſhe was then one of the faireſt of our lovely countrywomen—arrayed in all the beautiful, undiſguiſed attire of artleſs innocence and conſcious virtue. She, Gentlemen, was the eldeſt daughter of a gentleman with whoſe rank and reſpectability in life I ſhall be bold to aſſert ſome among you are not unacquainted. Robert Wade, of Clonabreny, in the county of Meath, Eſq. a man not leſs noticed for his conſiderable landed property, than his active patriotiſm for this country at large and that county in particular, retaining a large portion of land in his own hands, expended a princely income in the ſupport and employment of the

poor.

poor. Such was the father of that woman, who ſeemed deſtined by nature, by ſimilarity of birth and family, united to the wiſhes of her revered and venerable parents, to be the companion of the future happineſs and the ſharer in the riſing proſperity of my client. Wth theſe hopes a treaty of marriage was ſet on foot, which ended in its celebration to the univerſal ſatisfaction of all parties in the month of November, 1795. On this occaſion a ſum of 5000l. was given as a marriage portion, and my client in return made a no leſs liberal ſettlement for his lady and their iſſue. From this period to that which I ſhall hereafter unhappily have but too much occaſion to revert, my client, with his beautiful and accompliſhed wife, lived on thoſe terms of perfect, uninterrupted, conjugal love, and domeſtic happineſs, which, while it ſilently beguiled the paſſing hours of life, affording in its courſe, and in its exiſtence, an example not unworthy the imitation of the moſt ſcrupulous obſervers of the matrimonial vows, did, alas! but excite the envy, the baneful and perfidious machinations of that man, of whom I ſhall juſt now have occaſion to ſpeak. Gentlemen, Dive Jones, the defendant in this cauſe, a captain in his Majeſty's 54th regiment of foot, who, as I am inſtructed, is a man on whom nature has beſtowed an uncommonly graceful athletic perſon—a man, who to a finiſhed education, unites all that ſuavity of manners generally attached to military rank, ſo peculiarly captivating to the fair ſex, and which as it were, inſenſibly draws the object of its admiration to the jaws of that monſter, which this fair outſide is but in him calculated to conceal; and what ſhall be the feelings of you, Gentlemen, and of thoſe in whoſe hearing this hideous diſplay of vice is to be exhibited, when you ſhall be told, nay, when it ſhall be proved to you, that this betrayer, this robber of

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all that is lovely or desirable in humanity, has been at once the harboured guest of my unhappy client, and the near relative of the miserable victim of his abominable lust. Gentlemen, when I have thus far travelled with you through the mazes of this odious, this execrable colusses of corrupt and debased immorality, my soul recoils with horror at the glare of that monster who now presents himself to our view—that filthy, that incredible display of human depravity, which almost induces one to blush at the recollection that he is of that species with whom this gross incongruity is found to abound;—yet, Gentlemen, however painful, my task must be performed, and it yet remains with me to detail to you, as shortly as the nature of the circumstances will admit, the birth, growth, and dominion of this hydra.

As a near relative, in an elevated sphere of life, and as a man whose morals by consummate art and duplicity, appeared to be unexceptionable, and whose society was found to be in the same degree highly desirable; Captain Jones was about the year 1797 introduced to Mr. Tighe, his lady, and family, in Mr. Wade's house at Clonabreny. On this introduction, Capt. Jones, with that fascinating address, which, as I have already observed, he in no small degree possessed, immediately prepossessed my client with the strongest sentiments of friendship and esteem, and accordingly, when the time of their departure from Clonabreny arrived, he was pressed with that open, unreserved hospitality (for which I am instructed to say my client has been ever remarkable) to spend some time at his residence at South-hill, in the county of Westmeath; this, with a proper degree of reluctance was declined—at length accepted. When arrived at South-hill, it became the anxious care of the seducer to observe the most respectful

reſpectful conduct, fraught with apparent candour and platonic friendſhip towards the victim which he had marked for his own, to diveſt her of all ſuſpicion of the ſerpent which lay coiled but did not hiſs, and by inſinuating himſelf into the unlimited confidence of my unſuſpecting client, thus eſtabliſhed himſelf in the uſual poſition taken by the votaries of ſeduction, when a ſiege is to be carried on by thoſe gradual approaches ſo well known to wretches of this deſcription, and which, alas! the defendant in this action appears to have been extremely converſant in. Having by theſe means eſtabliſhed himſelf on a footing of the utmoſt intimacy with the plaintiff; he was conſtantly received, and, with his attendants entertained with every poſſible mark of hoſpitality and reſpect. Thus intrenched, the whole routine of advances, ſap, mine, and all the various artifices of ſeduction were put in practice againſt the chaſte, the innocent, the affectionate mother, the tender wife, the dutiful daughter—the wife of his friend. Good God! can it be conceived, that regardleſs of all the ties of honour, of decency, of common gratitude—in ſhort, of every feeling which binds man to man—a crime ſo heinous—ſo abandoned, ſhould have been planned with deliberation, carried on without remorſe, and at length its accompliſhment effected, with that infernal ſmile of gratification which we are told is the peculiar characteriſtic of the enemy of mankind when he has effected long ſought for purpoſes—but ſuch, Gentlemen, has been the fact.

I ſhall not treſpaſs much longer on your time—it is a loathſome theme. In ſhort, Captain Jones while under the roof of my client, enjoying all the hoſpitality and confidence you have been already told, having found means to detach her natural affection, and all thoſe tender ſentiments from that object, on which, Gentlemen, it is unneceſſary to

ſay

ſay ſhe had been accuſtomed to place them, at length ſucceeded in totally eſtranging her affections, not only from her injured huſband, but the fruits of their virtuous union; for, Gentlemen, there was iſſue of that marriage—a daughter, now about the age of three years. This little innocent became from thenceforth little noticed, diſregarded, and at laſt viewed by the unhappy mother with diſguſt—he, Gentlemen, from that high and enviable rank of virtue which ſhe heretofore held in ſociety, debaſed her to the condition of an abandoned proſtitute by acts of the moſt flagitious and debauched infidelity.

That openneſs, that candour, which recoils with diſdain and abhorrence from the approaches of the green-eyed monſter, that exalted opinion which the plaintiff entertained of the honour and morals of his gueſt, did not for a moment permit him to harbour a thought, that it was within the compaſs of human atrocity, that a train, a ſyſtem, of the moſt conſummate and unprincipled ſeduction, ſtep by ſtep, ſhould have been matured—ſhould have been effected—by whom—by the friend of his boſom—by the relative of that victim whoſe diſhonour had been projected, and whoſe infamy had been accompliſhed. Could it have been within the ſcope of his faith to believe, that this friend, taking advantage of the circumſtances on which he ſtood in his family, had embraced every opportunity of completing the pollution of her, in whom all his hopes, all his enjoyment were centered. Thus, Gentlemen, during the ſpring and ſummer of 1799, while this criminal and adulterous intercourſe was univerſally ſuſpected by thoſe perſons who are moſt likely to catch the ſtolen glances, the private whiſpers, the ardent embraces which here arreſted their notice, I mean the menial domeſtics of his family, my client remained in utter ignorance of this infamous procedure; his conjugal love for the one, and his wonted hoſpitality for

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the other did not ceaſe; he, Gentlemen, continued to obſerve his uſual attentive and affectionate demeanor towards her. At length he did ſee—he felt a change:—In the occaſional abſence of Captain Jones on military duty, he found that thoſe hours which were accuſtomed to be devoted to the domeſtic cares of her family, were ſilently and myſteriouſly employed in writing—he knew not what—unuſual and particular familiarities, which at this time, paſſed between the parties, alſo excited his more than ordinary attention; a confuſed mixture of poignant ſenſations, to which he had been heretofore a ſtranger, now took poſſeſſion of his faculties—he felt it to be his indiſpenſable duty, and he reſolved to obey its injunction, that he ſhould take ſuch cognizance of the future conduct of his wife, as might either remove thoſe hateful ſuſpicions, which now haunted his mind, or lead to a conviction of what he dared not credit.

With this reſolution my diſhonoured and abuſed client, one morning, in the latter end of July or beginning of Auguſt 1799, came ſuddenly into the dreſſing-room of his wife, where ſhe was found in ſubſcribing a large packet or letter. This packet, as may naturally be ſuppoſed, attracted his particular notice; which being obſerved by the wretched writer, ſhe ran in the utmoſt confuſion, ſeized the fatal letter which was to lead to a diſcovery of her infidelity, and thruſt it between the bars of the grate, in order that it might be conſumed; but being as ſoon reſcued and examined, what language can deſcribe that agonizing aſtoniſhment with which he was ſeized, when he found it to be directed to "Captain Divie Jones, 54th Regiment, Armagh;"—with trembling hands, and eyes which ſeemed to decline their office, he proceeded to the peruſal of the letter itſelf——but good God! Gentlemen, how can I deſcribe to you thoſe heart-rending feelings of mortification

tification—that melancholy calm of madneſs, which permitted his proceeding in its further inſpection—what? I ſay, can convey to you an idea of his unſpeakable horror, when he diſcovered, that this letter, all in the hand-writing of his wife, commenced with the expreſſion of "My darling Love;"—intimated a criminal and illicit correſpondence between her and the defendant—to have been long on the tapis, and containing expreſſions and ſentiments of the moſt inviolable love and attachment for this faithleſs friend:—and here I ſhall be bold to aſſert, I cannot more forcibly pourtray to you that mild, amiable, and gentle diſpoſition which characteriſes my client, than by ſtating to you, that, having no doubt of the infidelity of his wife, without abuſe, without reproach, he inſtantly put her into his carriage and conveyed her to her father's houſe at Clonabreny, where he left her.—How different from that ſtate in which he had received her!—what a picture! what an object, to the grey hairs of her aged and revered parents. As ſome atonement for that injury which a beloved, but betrayed huſband, had ſuſtained, ſhe fully confeſſed the criminal intercourſe I have related to you—declaring, in extenuation of her guilt, that he practiſed various artful ſchemes to eſtrange her affections and betray her virtue; and that he at length completed the meaſure of her iniquity by force and ſtratagem in the abſence of her huſband—frequently ſoliciting her to elope with him.

Immediately after this diſcovery, Mr. Tighe applied for and obtained a Judge's fiat againſt Captain Jones, to hold him to bail in a very large ſum. Under this fiat no arreſt could be made—Captain Jones having totally abſconded from the country—and it was not, until this Court were pleaſed, from the extraordinary and peculiarly diſtreſſing ſituation of the caſe of my client, to interfere for his relief,

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to grant him that liberty of proceeding in this action, by which he has been at laſt enabled to bring the inveſtigation of this atrocious crime before a jury of his fellow-countrymen.—I conceive it alſo, Gentlemen, not unneceſſary to acquaint you, that my client, laying aſide for a moment all recollection of the infidelity of his wife, only anxious for her future comfort, has ſecured to her a ſeparate maintenance of 200 l. per annum. Her father, appalled with the ſenſe of the diſhonour brought on his child, has ſent her to ſome obſcure part of the neighbouring country, where, aſſuming a fictitious name, ſhe now pines under extreme debility of body and anxiety of mind, occaſioned by the recollection of her former condition, the irretrievable loſs of her huſband's affection, and the contemplation of the magnitude of all that incalculable train of evils her miſconduct has heaped on the heads of her once deareſt connexions.

Mr. Wade, from the ſame motive, has, with his large landed property, diſpoſed of the family ſeat at Clonabreny, and retired, to drown in ſilent ſorrow in another country, the pangs of wounded honour and paternal affection. One obſervation more—my client, Gentlemen, did, in June laſt, obtain a ſentence of divorce in the Conſiſtorial Court from bed and board againſt this unhappy woman, upon the fulleſt and cleareſt evidence.

Mr. Curran here in a ſtrain which we lament our limits will not permit us to purſue, with that pathetic eloquence which is peculiarly his own, took an extenſive review of the nature and duties of the wedded ſtate, as affecting the civil and political world at large, from whence he drew, by ſtrong and energetic reaſoning and in the higheſt colouring, inferences and applications at once ſtrikingly relevant and intereſting. He then concluded with aſſuring the Court and jury, that he ſhould not preſume to

anticipate

anticipate their deciſion, or to guide their judgment on the queſtion now before them, by expecting an implicit belief of the ſtatement they had juſt heard, but would proceed in producing ſuch teſtimony in its ſupport, as did not leave unwarranted or unfounded one ſyllable which had fell from him.

Michael Daniel *of Belview, in the county of Meath, Eſq; was then produced and examined by Mr. Barrington.*

Q. Are you acquainted with Robert Tighe, the plaintiff in this cauſe, and Eſther Frances Tighe, his wife?

A. I am.

Q. How long have you known them?

A. I have known Mr. Tighe upwards of fifteen years; and as to Mrs. Tighe, I have known her ſince ſhe was born.

Q. Were you preſent at their marriage?

A. I was.

Q. When did it take place?

A. As well as I can recollect, they were married ſome time about the 24th or 25th of November in the year 1794 or 1796, which really I do not now exactly remember.

Q. No matter; by whom was the ceremony performed?

A. They were married by Dean King; I mean Archdeacon King.

Q. According to the rites of the Church of England?

A. Yes.

Q. They were both then of that religion?

A. They were.

Q. What rank in life was Mrs. Tighe previous to her marriage?

A. She was the eldeſt daughter of a moſt reſpectable

able man, Mr. Robert Wade of Clonabreny, in the county of Meath.

Q. Were you preſent at their marriage-ſettlement, or do you know what fortune this young lady brought her huſband?

A. Mr. Tighe, on the day of their marriage, was paid 4,000l. down in ready money, with 1,000l. placed out at intereſt.

Q. What was the general character of Mrs. Tighe, while Miſs Wade?

A. None better; a dutiful and an affectionate daughter; her character irreproachable.

Q. She is young and beautiful?

A. I believe ſhe is now little more than one twenty; ſhe was indeed a very beautiful woman.

Q. What rank in life did Mr. Tighe hold, when he married Miſs Wade?

A. He was the ſon of a gentleman of very conſiderable fortune and great reſpectability in the county of Weſtmeath; his father is ſince dead, and I believe Mr. Tighe is now in receipt of a very ample fortune.

Q. What character has Mr. Tighe borne?

A. I always looked upon him as a remarkable amiable and deſerving young man; and I believe he has been the beſt of huſbands.

Q. Pray is not Mr. Tighe alſo a Member of Parliament?

A. He is.

Q. What age is he now?

A. I believe he is now about nine and twenty.

Q. Is he what one would call a handſome man?

A. His perſon, I think, is unexceptionable.

Q. You have known Mr. Tighe and his lady ſubſequent to their marriage; been on terms of intimacy with them; pray what was their mutual behaviour to each other?

A. I have very frequently viſited them, and had opportunities

opportunities of witneſſing their domeſtic conduct, and I really never ſaw people who appeared to live more happily or on better terms.

Q. Had they any children?

A. Yes; one daughter.

Q. How old might ſhe be?

A. I believe about four years old.

Q. Was Mrs. Tighe a very affectionate mother?

A. I never ſaw a woman more ſo.

Q. Do you know Captain Jones, the defendant in this action?

A. I have known him.

Q. Have you known of his being the particular friend and intimate acquaintance of Mr. Wade and Mr. Tighe?

A. I have ſeen him in the family of both.

Q. Did it appear to you that he was there kindly and hoſpitably received?

A. Certainly I had no reaſon to think otherwiſe.

Q. Did Mr. Tighe and his lady part, in conſequence of the diſcovery of her criminal connexion with Captain Jones?

A. They did.

Q. How long ago?

A. About twelve months ago.

Q. Was it long after the fatal diſcovery?

A. I believe immediately after.

Q. And they have never ſince lived together?

A. Never.

Q. Where is Mrs. Tighe now?

A. I have heard that ſhe now reſides in England.

Q. On account of this unfortunate affair?

A. Yes, I believe ſo; I heard her father ſent her to England from the ſcandal of that affair.

Q. And you poſitively ſay, that it appeared to you, in all your viſits to Mr. and Mrs. Tighe, from

 their

their general character and from your own knowledge, that they lived on terms of perfect conjugal affection and tenderneſs?

A. Moſt aſſuredly; had I the ſmalleſt reaſon to think otherwiſe, I would declare it.

Croſs examined by Mr. Ponſonby.

Q. You ſay, Mr. Daniel, you are well acquainted with theſe people?

A. I do.

Q. You have before given evidence in this matter in the Conſiſtory; that is, you have been examined there?

A. I have.

Q. Pray are you any relation to the young lady?

A. I am, Sir, a very near relation; I am her great uncle.

Q. Have you Mr. Daniel remembered Mr. Tighe to be in the Weſtmeath regiment of militia?

A. Perfectly well.

Q. Perfectly well—Pray what rank did Mr. Tighe bear in that regiment?

A. He was a Captain.

Q. Did Captain Tighe with his lady live at quarters?

A. They did.

Q. Pray do you recollect any thing particular occurring during their reſidence at quarters?

A. I really do not recollect, nor can I charge my memory with any remarkable occurrence whatever which took place while they were there.

Q. You cannot recollect well.—Now ſir, what ſtile did they live in when at barracks? Did not they keep an open table, entertaining profuſely with a conſtant round of company and amuſements?

A. I cannot ſay they did.—They certainly ſaw and entertained a good deal of the beſt company, and were univerſally reſpected in the neighbourhood.

Q. Was

Q. Was it not poſſible notwithſtanding your great relationſhip and intimate acquaintance with thoſe parties, that they might have lived on terms ſomewhrt ſhort of this Elyſium you ſpeak of?

A. If they lived on bad terms I muſt have known it.

Q. Now ſir, you are a man of the world, have ſeen a great deal of life, and preſume you did not conceive it to be any diminution of Mr. Tighe's great tenderneſs for his wife, that he indulged in gallantry.—Pray ſir, did he not keep a kind ſympathiſing nymph?

A. I do believe he never kept ſuch a perſon—nor do I think he was in the habit of indulging in gallantry.

Q. No, no; 'tis a delicate queſtion—the gentleman exceeded the lady it ſeems by ſome degrees in chaſtity?

A. I believe Mr. Tighe is a man of correct morals.

Q. Very well ſir, you may go down?

Counſel. Have the goodneſs to remain in court.

Philip Batty, *of Ballyhealy, in the County Weſtmeath, Eſq. examined by Mr. Moore.*

Q. Where do you live, Mr. Batty?

A. I live at Ballyhealy, in the county of Weſtmeath.

Q. Have you known Mr. Robert Tighe the plaintiff in this action, and his wife?

A. I have been in the habits of viſiting them as a neighbour—my place is but a ſhort diſtance from South-hill, where Mr. Tighe lives.

Q. Now, Mr. Batty, had you not in thoſe viſits an opportunity of ſeeing and being acquainted with Mr. Tighe's conduct to his lady—Was it that of a man who felt a proper reſpect, and poſſeſſed the warmeſt affection for his wife?

A. In all my acquaintance with them, they appeared to be the moſt affectionate couple breathing, and to live moſt happily together.

Croſs-examined by Mr. Burroughs.

Q. Your acquaintance ſir, has been no otherwiſe particular with Mr. Tighe and his family, than merely as a viſiting neighbour; is that the caſe?

A. Juſt ſo.

Q. And your knowledge of their domeſtic conduct derived from no other ſource?

A. I had no other way of knowing their conduct but from my viſiting them, and from the general character they held in the country.

Q. Thoſe viſits were not very frequent—they could not have been ſo often repeated but that in the interim Mr. and Mrs. Tighe might be found not to live in all that harmony you have taken upon yourſelf to ſwear—could they not live on terms the reverſe of what you have deſcribed, without your knowledge.

A. I cannot ſay I have been either a very frequent viſitor, or had a very particular acquaintance with Mr. Tighe—I knew and reſpected him as a neighbour—and certainly beyond this, my knowledge of him did not extend—From theſe circumſtances, I had an opportunity (as I ſaid before) of ſeeing ſo much of his domeſtic conduct, as induces me to ſay, and I really believe, no two perſons ever lived more contentedly together than he and his wife.

Q. I aſk you on your oath, ſir, was it not poſſible that Mr. Tighe might, notwithſtanding all this, have been without your knowledge, precifely the reverſe in his conduct towards his wife, from that of an attentive or affectionate huſband?

A. I proteſt I cannot but ſay that it is impoſſible for me to take upon myſelf poſitively to ſwear whether it was or it was not—but I believe, that were he a bad huſband, I as a neighbour would know it.

Q. Now,

Q. Now, I aſk you Mr. Batty, as you have been ſo near a neighbour of Mr. Tighe, and were ſo well acquainted with his domeſtic affairs, was he not a man of extenſive gallantry—you know what I mean?

A. I never heard he was a man of that deſcription.

Q. I believe not—but I aſk you ſir, what is your belief of him in that reſpect?

A. It is hard for me to form any belief with reſpect to it; I rather think he did not indulge in gallantry.

Q. By virtue of your oath, ſir, don't you know that Mr. Tighe kept a girl?

A. I aſſure you ſir, I never heard of ſuch a circumſtance, and I do believe he did not—but certainly he might do ſo unknown to me.

Q. Well ſir, the whole amount of your evidence is merely this: that you have had a general, though not a particular acquaintance with Mr. Tighe, and that in the courſe of your viſits to his family you met with nothing which could ſhake your opinion of their domeſtic happineſs?

Court. This evidence, Mr. Burroughs, appears to me much ſtronger, and to go far beyond this calculation—I have committed it to my notes.

Counſel. Of that my Lord I have no doubt, and ſhall entirely ſubmit to them.

Witneſs. I have nothing more to ſay my Lord than what your Lordſhip has already heard.

Counſel. You may go down ſir, but don't leave the Court.

George Gibbs, *Eſq. produced and examined by Mr. Eſpinaſſe.*

Q. Look at that deed ſir; are you a ſubſcribing witneſs to it?

A. I am

A. I am ſir.

Q. Have you ſeen it duly executed by the parties whoſe names appear ſigned to it?

A. I have.

Q. Pleaſe to read the date, and parties names?

" Witneſs here recited the date of the deed to be the 21ſt of November, 1795—to be the plaintiff's marriage ſettlement—and the parties to be the plaintiff and his father of the 1ſt part, the lady and her father of the 2d part—the Earl of Leitrim, and Sir ——— Chapman, Bart. and Blany Balfour of Townly-hall, county Louth, Eſq. of the 4th part, and the conſideration to be 5000l."

The plaintiff's Counſel having converſed for a few minutes.

Mr. Barrington—My Lord, there are ſeveral gentlemen in court ready to give teſtimony to the effect which your Lordſhip and the Jury have heard from Mr. Daniel and Mr. Batty.—It has occurred to me, and the gentlemen who are concerned with me, that from the high reſpectability of the witneſſes already examined, a repetition of the ſame evidence becomes unneceſſary.—We therefore ſubmit to your Lordſhip, that this part of the caſe has been fully eſtabliſhed.

Court. I proteſt I do not ſee what neceſſity there is for going into further evidence to that part of your caſe, unleſs the gentlemen at the other ſide deſire it—and then I am ſure I ſhall not have the ſmalleſt objection to your examining as many witneſſes to it as you pleaſe.

Mr. Plunket.—My Lord, we ſhall even indulge the gentlemen at the other ſide in their wiſh to cloſe this part of their caſe.

Mr. Moore.

Mr. Moore.—We therefore, my Lord, ſhall proceed to ſuch evidence as ſhall equally eſtabliſh the remaining points of our caſe.

William Bell, *Labourer, examined by Mr. Vavaſour.*

Q. Do you know Mr. Robert Tighe the plaintiff, in this cauſe?

A. Yes ſir, I live under him.

Q. I beg my good friend you will anſwer me ſuch queſtions as I ſhall aſk you without travelling into any thing elſe, unleſs deſired.—Now ſir, how long are you acquainted with Mr. Tighe?

A. Why ſir, I know him and the family ſince the time I was born.

Q. Did you know his lady, Mrs. Eſther Tighe, for the ſame period?

A. I only knew the miſtreſs about ſeven years, or there away.

Q. Do you know that Mr. Tighe and his lady have long ſince parted?

A. Yes ſir, I know they are parted.

Q. What time did this happen?

A. Faith and ſoul myſelf does not now remember.

Q. Oh well, then as nearly as you can gueſs?

A. Why I believe it is now a twelve month laſt harveſt.

Q. Did you know Captain Dive Jones, the defendant in this cauſe?

A. Yes ſir, I did—I ſeen him often at the maſter's.

Q. How long have you known Captain Jones?

A. It is two years and upwards.

Q. Where did you firſt ſee him?

A. I ſeen him always at the maſter's in the country.

Q. Aye, you have ſeen him frequently at Mr. Tighe's—tell me, was he there on a viſit, or did he caſually call on the family as a common acquaintance?

A. I know

A. I know that his horſes, his ſervants, and himſelf, uſed to live there, backwards and forwards.

Q. How came you to know this?

A. I uſed to work like a labouring boy—aye, ſince I was able to lay hold of a ſhovel about the houſe and garden, and about the demeſne and grounds of the maſter-

Q. Do you mean thoſe of Mr. Tighe?

A. Yes ſir, 'Square Tighe.

Q. Then you have been employed very often in cleanſiing and improving the 'Squires plantations and ſhrubberies?

A. Yes ſir—troth, mighty often.

Q. Now, William Bell, before the ſeparation of Mr. Tighe and his lady, do you know of any thing particular having taken place between her and this Captain Jones?

A. Yes, ſir—I ſeen them together in the ſhrubbery, at the maſter's houſe.

Q. Be ſo good to tell them gentlemen in as few words as poſſible, what you ſaw take place between Mrs. Tighe, and Captain Jones—raiſe you voice?

A. Some time about the beginning of laſt ſummer twelve-month, I can't be certain—I believe it was about the month of June, I was then upon my old work, ſcouring and cleaniug out one of the ſhrubberies at South-hill; when, who ſhould I ſee but Captain Jones and Mrs. Tighe, walking arm and arm together upon one of the by-walks, hard by where I worked—then ſure enough I thought to myſelf to watch them, in regard I often heard at the 'Squares among the ſervants, that Captain Jones and their miſtreſs was too thick; and then I goes and ſtoops behind a thick hedge to hide myſelf, but all the time ſeeing the Captain and Mrs. Tighe—and then I ſees the Captain kiſs her and put his hand in her pocket under her petticoats, and put the other hand in her boſom, and kiſs her again—then I ſees them

them walk a while together, and then the Captain and ſhe went under the little buſhes of the big walk, and the Captain then threw her down upon her back, with that he took up her petticoats, then looſened his breeches, and went between her legs and thighs—this I ſeen—ſure as day.

Q. All this you poſitively ſwear to, and you then ſaw them commit the act of adultery?

A. I ſeen them that way and he on top of her!

Court. Really, Mr. Vayaſour, it is unneceſſary to preſs the man farther, he has told you what muſt put beyond doubt the commiſſion of the act. Have you any more queſtions to aſk him?

Counſel. Yes, my Lord, one or two more.

Q. Before this did you ever ſee this gentleman, I mean Captain Jones and Mrs. Tighe walking or riding out together?

A. In troth, yes ſir, mighty often, both before and after I ſeen them both riding and walking together arm and arm about the demeſne.

Croſs-examined by Mr. Plunket.

Q. What's this your name is my good fellow?

A. Billy Bell, Sir.

Q. Where do you uſually reſide?

A. I keep at South-hill in the county of Weſtmeath.

Q. What trade do you follow?

A. I'm a labouring boy, Sir.

Q. Indeed ſo it ſeems, and a hard working lad too, now pray Mr. Bell with whom do you live at South-hill.

A. I always, always uſed to work for ſquare Tighe.

Q. Recollect yourſelf, my good friend, you're on your oath, were you never otherwiſe employed?

A. No, ſir, he always gave me plenty of work.

Q. You were never employed in ſwearing againſt your miſtreſs any where elſe?

A. I come

A. I come up to this town laſt ſummer in regard of it.

Q. By virtue of your oath, friend, was it the ſame teſtimony you gave in the conſiſtorial court that you have given here to-day?

A. Myſelf can't ſay.

Q. I aſk you, ſir, was it the ſame identical teſtimony you gave on this occaſion, did it differ in any one reſpect from that pretty ſtory you have been juſt telling us?

A. I can't underſtand it, I told the truth that I made mention before.

Q. Well, Mr. Bell, I ſee your delicacy, I'll not wound your feelings upon a ſubject which appears ſo irkſome to you.—Pray, ſir, have you been lately at the aſſizes?

A. I can't make no ſince out of what you ſay—what ſizes?

Q. Now ſir, will you take upon yourſelf to ſwear you are ignorant of what I mean?

A. I can't make no ſince at all of it.

Q. No—that's very extraordinary. Have you been at the laſt aſſizes of Mullingar? now I believe I make myſelf underſtood.

A. I was not at any ſizes—is it at the trials at Mullingar?

Q. Aye the very thing—you heard no doubt of an ugly piece of buſineſs about a mail robbery that happened in your neighbourhood laſt ſummer—you were no way concerned in that affair?

A. No ſir, not I, thank God.

Q. I knew it! nor in goal for it?

A. No ſir, never in my life.

Q. Sure I knew—what need I have aſked you; there was no near relation of yours taken up and put into goal charged with this robbery?

A. Why Sir, I hard there was a brother of mine that was got by the bye, that was put in goal for ſomething of the kind.

Q. So

Q. So now at laſt with the greateſt reluctance you have deigned to acknowledge that an illegitimate branch of your family has been accuſed of this very trifling offence, and yet juſt now you could not underſtand what I meant by aſſizes. Pray my good lad, has not Mr. Tighe been a very indulgent kind maſter to you?

A. No ſir, he ped me honeſt.

Q. No! not a kind maſter, never gave you any little trifling gratuities of old cloathes, a little money now and then and the like, particularly ſince you became pregnant with that modeſt ditty you have been juſt delivered of—didn't he provide for your lying in?

A. No indeed ſir, he ped me honeſt for my work, and that's all.

Q. That's a very nice coat you have got for a labouring boy—how came you by it?

A. Oh ſir, this is my Sunday coat.

Q. For God's ſake, when did you ſee this buſineſs you have been talking of—on what day of the month might it have happened?

A. Faith I can't ſay the day of the month.

Q. Can't you give even a gueſs, take your time?

A. I had'nt no pin and ink for to inter it down.

Q. Can you write?

A. No ſir.

Q. No! and what ſort of a fellow are you who preſume on your oath to declare before this whole court that you only wanted pen and ink to enter down the day of the month you would perſuade us you had been witneſs to this pretty ſpectacle, when in the ſame breath you acknowledge your incapacity of writing at all?

A. I mean ſir, if I had larning for to do it.

Q. Very good ſir—but pray how came it that you, minding your work behind a hedge, could yet ſee ſo minutely every thing that paſſed in the big walk?

A. I did ſee it indeed, ſir, for I ſtooped and watched through the hedge.

Q. Could

Q. Could they ſee you?

A. No ſir.

Q. And yet you could ſee them?

A. Yes ſir.

Q. Ah now my good fellow explain that to us; direct your face to the jury, and tell them how you contrived it?

A. I ſeen them through the hedge with my two looking eyes.

Q. A very full explanation I muſt confeſs.—I underſtand Mr. Bell you're a man of landed property, have a ſnugg farm under the ſquare, all in your own occupation; pray how many acres of land might you be poſſeſſed of?

A. About a rood.

Q. Very handſome. Pray ſir do you now devote your leiſure hours to the ſhrubbery and plantation work of this *unkind* maſter—are you now in his ſervice?

A. I do his work as uſual.

Q. Pray how came you to ſpeak of this tranſaction—did any one aſk you?

A. I can't remember now ſir, I told the ſervants and then the maſter aſked me.

Q. Was it before he turned away his lady he aſked you or after?

A. No ſir it was not, it was after that.

Q. How came he to apply to you in particular—I ſuppoſe he thought you to be the moſt likely perſon to be witneſs of ſuch a ſcene, as you were always about the trees and ſhrubberies—was that the reaſon?

A. I can't ſay ſir—when they aſked me I told how it was, and that's all.

Q. Pray what ſhelter was there in this alcove, what ſort of trees were there about it?

A. There was beech trees and gooſeberries.

Q. Was there no other underwood?

A. No ſir, I don't remember.

Q. Was

Q. Was it on a gooſeberry-buſh or in a beech tree they repoſed?

A. I don't know ſir, they were there under the buſhes.

Q. When did you firſt let out this ſecret?

A. I told of it when Jack Carlin and the reſt of them was going to Dublin to ſwear about it.

Q. When was this?

A. I don't know when it was, ſir.

Q. But you wiſhed to accompany your friend Mr. Carlin and his companions in their excurſion to the metropolis—was this your motive for undertaking ſo fatiguing a journey?

A. They told me I ſhould up and tell the plain truth in regard of it.

Q. How long after the tranſaction in the ſhrubbery was it that you made your maſter acquainted with the ſcene?

A. I can't ſay,

Q. Was it 6 months, 12 months, 1 month, a fortnight, a week, more or leſs, can't you give a gueſs?

A. Really I can't tell.

Q. Your memory muſt be very bad; now don't you know that Mr. Tighe can't procure a divorce from his wife ſo as to enable him to marry again, unleſs he gets a verdict againſt Captain Jones?

A. I don't know, ſir.

Q. Nor can't you form a belief?

A. I don't underſtand it at all at all.

John Carlin, *produced—examined by* Mr. Moore.

Q. Are you acquainted with Mr. Tighe, the plaintiff in this action?

A. I am, ſir.

Q. How long have you known him?

A. I think it's above 8 years ſince I knew him firſt ſir.

Q. Did

Q. Did you know his wife, Mrs. Eſther Tighe?

A. I did.

Q. For the ſame period?

A. No, ſir; I have only known Mrs. Tighe little more than two years.

Q. How came you to be acquainted with them?

A. I was butler for ſome years to Mrs. Tighe's father.

Q. Where did he live?

A. At Clonabreny in the county of Meath.

Q. Were you living as butler with Mr. Wade any part of the ſummer of 1799?

A. I was ſir and long before

Q. Do you know Captain Jones, the gentleman againſt whom Mr. Tighe has brought this action?

A I do ſir, perfectly well.

Q. How long have you known him?

A. I think it's about 2 years ſince I firſt knew him.

Q. Where was it you firſt knew him?

A. I uſed to ſee him conſtantly at Clonabreny.

Q. At Mr. Wade's?

A. Yes, ſir.

Q. As a viſitor?

A. Yes ſir, he uſed to be in the family like one of themſelves.

Q. Mr. and Mrs. Tighe were in the habit of coming occaſionally to Mr. Wade's and ſpending ſome time there?

A. Very often ſir, they uſed to come from South-hill acroſs the country.

Q. They and Captain Jones caſually met at Mr. Wade's as other company who were invited might?

A. Yes ſir, they were all acquainted.

Q. During your reſidence at Mr. Wade's, did you ever hear any whiſpers or ſuſpicions among the ſervants about any improper intimacy between Capt. Jones and Mrs. Tighe?

A. I certainly

A. I certainly did very often hear among the ſervants that there was ſomething not proper between them.

Q. Did you alſo ſuſpect that there was ſomething improper between them?

A. I certainly did.

Q. What was your reaſon for ſuſpecting them?

A. Why ſir, I and the reſt of the ſervants firſt ſuſpected them from one day after dinner, in the parlour at Clonabreny there was a great deal of company, and they were all talking about Lord Weſtmeath, and how he divorced his lady, and Captain Jones told them that there never was a woman he would be two hours in her company but he would ſeduce, and they all fell a laughing.

Q. Was this your only reaſon for thinking there was a criminal intercourſe between the Captain and Mrs. Tighe?

A. No, ſir.

Q. What then?

A. I uſed to ſee them often walking together arm and arm, and he ſqueeze her hand—they never were happy but when together.

Q. Do you remember the month of June 1799?

A. Yes ſir, I do.

Q. You then lived with Mr. Wade?

A. I did, ſir.

Q. Was Mr. Tighe or any of his Family at Mr. Wade's any time in that month?

A. Yes ſir, Mrs. Tighe was there.

Q. Who elſe?

A. Captain Jones.

Q. Do you remember any thing remarkable having taken place about this time at Mr. Wade's between Captain Jones and Mrs. Tighe?

A. I do, ſir.

Q. Now Mr. Carlin, relate to the court what you ſaw take place between the Captain and Mrs. Tighe on this occaſion.

A. As

A. As I was coming from the ſtable to the houſe, I ſaw Mrs. Tighe and Captain Jones walking together with her arm under his, and as I long ſuſpected them, I ſtood and watched them, and they walked on until they came to a green-houſe that's between the ſtable and the houſe, and when they went into the green-houſe, Captain Jones laid her down upon her back on the green-houſe mat, threw up her petticoats, and went between her legs and thighs, and I ſaw them criminally connected together.

Q. What time do you ſay this was?

A. I can't now perfectly recollect, but I believe it was the middle of June twelvemonth.

Q. Very well, and all this you poſitively ſwear you ſaw take place between Captain Jones and Mrs. Tighe at Clonabreny?

A. Yes ſir, it was at Clonabreny.

Croſs-examined by Mr. Buſhe.

Q. Pray, Mr. Carlan' where do you live?

A. I live with Mr. Tighe.

Q. What! the gentleman who is the plaintiff in this ſuit?

A. Yes ſir, Mr. Robert Tighe of South-hill.

Q. When did you come to live with him?

A. I can't ſay when it was, I believe it's above a year.

Q. Was it before or after the affair in the green-houſe?

A. It was after.

Q. I gueſſed ſo; but pray did you tell Mr. Tighe of that buſineſs before he took you into his ſervice?

A. He knew it, ſir; I was hired to him 3 months before I came to him.

Q. And received wages for thoſe 3 months?

A. Yes ſir, he paid me for the 3 months.

Q. He paid you for 3 months you were not with him! how came that?

A. Why

A. Why, Sir, I was hired to him but didn't go home.

Q. Well, Sir; you have ſaid that Mr. Tighe knew of the green-houſe affair: did you tell him?

A. Yes, Sir, I told him ſince; but then when I hired with him, he did not know it.

Q. What then did he know?

A. Why, Sir, all the ſervants were put to their oaths before Lord Weſtmeath about it.

Q. Wereyou examined on this Court of Enquiry?

A. No, Sir; I didn't like to be concerned in it; I came up to town.

Q. Quit your place to indulge your delicate feelings?

A. I did not like to ſtay in it longer.

Q. When did this grand examination take place?

A. I believe, Sir, Lord Weſtmeath ſwore them about Auguſt or September twelve months; I am not ſure.

Q. Had you no other reaſon for leaving your place, than merely the ſhock you apprehended to receive on being queſtioned about this buſineſs?

A. I did not like to be in it longer.

Q. But how came you at laſt to gain ſuch a conqueſt over your feelings, as to tell your maſter of this affair?

A. I thought I might as well tell the plain truth, when I was aſked, after all the other ſervants told what they knew.

Q. But what prevented your telling him after it happened?

A. Why, Sir, I did not like to be concerned in a matter of the ſort.

Q. Very prudent; but pray did you ever hear any thing particular, beſide what you have ſworn you ſaw, relative to this crim. con. affair between Captain Jones and Mrs. Tighe; recollect yourſelf?

A. I remember Captain Jones's man told me they were criminally connected.

Q. Are you ſure;

A. Yes, Sir, I am very certain he did.

Q. Would you know this man if you ſaw him?

A. I would, Sir.

Q. Now my good friend, recollect what you have poſitively ſworn to about this green-houſe affair; how came you to ſtop and notice what did not become a perſon in your ſtation?

A. How came I! why becauſe I thought they were on nothing good.

Q. What diſtance were you from them?

A. I can't tell, indeed, it was but a ſhort diſtance.

Q. Was it a mile?

A. A mile! it was nothing like a mile, they were very near me.

Q. Did you follow them?

A. No, Sir.

Q. What then?

A. I ſtopped and watched them.

Q. A very pretty employment! What poſition did you chooſe, or where were you when you ſaw them?

A. I was coming from the ſtable to Mr. Wade's houſe, when I ſtopped and ſaw them.

Q. And from this place you could ſee all you have been telling us?

A. I ſaw them go into the green-houſe, and they criminally connected.

Q. So indeed you would perſuade us; but pray is this green-houſe glaſſed?

A. Yes, Sir.

Q. Has it a door?

A. There's a door certainly to it.

Q. Was it thro' the door or glaſs you were entertained in the manner you deſcribe?

A. I ſaw

A. I ſaw them thro' the door.

Q. Was it open or ſhut?

A. It lay open.

Q. Juſt that you might ſee them! but pray did they remain long amuſing themſelves under this glaſs caſe, with the door open?

A. They were there I believe a good while.

Q. You believe! why I thought you ſtaid the whole performance; but you probably came away after the firſt act; was that the caſe?

A. When I ſaw them criminally together, I walked away.

Q. I ſee; what hour of the day or night might this be?

A. It was in the morning.

Q. Three or four, I ſuppoſe?

A. No, Sir; I believe it was before breakfaſt.

Q. Pray Sir, what hour?

A. Really I can't tell; I believe it was nine or ten o'clock.

Q. Was the ſun ſhining?

A. Yes, Sir.

Q. Are you a poet?

A. No, Sir.

Q. I ſuſpected you were, indeed, from the ſublimity of your deſcription; but pray, my good lad, were you ever examined on this buſineſs before; that is, did you ever give any teſtimony any where elſe concerning it?

A. Yes, Sir; I ſwore all I knew about it laſt Summer.

Q. For what purpoſe?

A. I don't know rightly; I believe it was concerning my maſter's ſeparation from his wife.

Q. And you helped him?

A. No, Sir.

Q. You did not; now, Sir, don't you know, and

are not you convinced, that if your maſter is caſt here to-day, he can never be ſeparated from his wife?

A. I don't know, Sir.

Q. But what do you believe?

A. I really can't ſay any thing about it.

Q. Don't you believe that the reaſon your maſter has brought this ſuit is, to be entirely divorced from his lady, and that he may marry ſome other?

A. I don't know, Sir.

Q. You don't know; why don't you know, that unleſs he obtains a verdict on this trial, he can obtain no act for a final divorce?

A. I know nothing at all concerning it, to or fro.

Q. By virtue of your oath, have you not been retained in Mr. Tighe's ſervice for the mere purpoſe of giving teſtimony in this buſineſs?

A. No, Sir, I was not.

Q. But pray, Sir, do you know any thing of a little whiſpering about your maſter's paying his addreſs at this moment to a certain young lady, and that it's intended the marriage ſhall take place as ſoon as he ſhall be wholly ſeparated from his wife?

A. I heard nothing about it.

Q. Not one word! Now what do you believe about it?

A. I don't think it's true.

Q. Does your maſter keep a miſs?

A. No, Sir; he never did that I know of.

Q. He's not addicted to women; is that the caſe?

A. I can't ſay, Sir, whether he is or not.

Q. Has not he even ſome female houſekeeper?

A. No, Sir; he has no one but his mother.

Q. When did ſhe come there?

A. After my maſter parted with his wife.

Q. When was that?

A. I cannot tell exactly; I believe it's more than a year ago.

Q. Pray was it the ſame evidence you gave laſt ſummer,

ſummer, for the laudable purpoſe of ſeparating your maſter from his wife that you have given here?

A. I don't recollect; I ſwore nothing but the truth at both times.

Q. Are you ſure; did it all differ; was there no variations; did you ſay more, or did you ſay leſs?

A. I juſt mentioned all I knew, and I don't remember more about it.

Q. I ſee, you can't tell; you may go down, Sir.

Catharine Gaynor, *Widow, produced and examined by* Mr. Barrington.

Q. Where do you live, my good woman?

A. I live, Sir, at preſent in Dunganſtown, hard by Caſtletown Delvin, in the county Weſtmeath.

Q. Have you always lived there?

A. Not always, Sir; I am not there quite a year yet.

Q. Where did you live before you came there?

A. In Ballynavally, near Mr. Tighe's place at South-Hill.

Q. Did you follow any buſineſs there?

A. Yes, Sir; I ſold a little ale and ſpirits.

Q. You are acquainted, I preſume, with Mr. Robert Tighe, the plaintiff in this ſuit?

A. Indeed, Sir, I know the family all my lifetime; and a better family there could not be.

Q. Did you know his lady, Miſs Wade that was?

A. Indeed I knew them both; I ſeen her when Mr. Tighe and ſhe came home after being married.

Q. How long ago was this?

A I believe, Sir, its going on five years.

Q. And you afterwards knew of their living together?

A. Indeed yes, Sir; until he ſent her home.

Q. Did you know Captain Jones, the gentleman Mr. Tighe has brought this action againſt?

A I knew him very well, Sir.

Q. Have

Q. Have you ſeen him at Mr. Tighe's at South-Hill?

A. Indeed I did, Sir; himſelf and his man uſed to be never from it.

Q. How do you mean never from it?

A. Why, Sir, they uſed to be moſtly there, riding and walking about the place, and living at Mr. Tighe's.

Q. Do you recollect Captain Jones being at Mr. Tighe's any time in the ſummer before laſt?

A. I remember he was there very well, Sir, the whole ſummer until harveſt.

Q. As you recollect Captain Jones and Mrs. Tighe ſome time in that ſummer riding up to your cabin at Ballynavally, and afterwards alighting and coming in from a ſhower of rain!

A. I remember it very well, Sir; there was a ſervant riding after them.

Q. Now be ſo good to raiſe your voice, and tell his Lordſhip, and the Gentlemen in that box, every thing with which you are acquainted, that paſſed between the Captain and Mrs. Tighe on that occaſion?

A. There was a heavy ſhower of rain about the middle of the day, and I heard the noiſe of horſes at the threſhold; with that Captain Jones and Mrs. Tighe alighted and came into the cabin. When he came in, he went over and ſat upon an old cheſt that was in the place, and ſhe ſtood at the door; he was not long there, when he came over and was whiſpering to Mrs. Tighe at the door, but I could not hear one word they ſaid. Captain Jones then turned about and aſked me, if I could get him a pen and ink, and ſaid he lived in Connaught, and ſhould write a letter for ſome things that he forgot to give orders to the carman to bring to Dublin; and moreover he told me, that he ſhould put the letter in the next poſt town himſelf. Upon that I told him, that I had never a pen and ink in the place, but I would

go

go and get him one; then I went out a little ways from the cabin to a ſchool-houſe that was hard by, and borrowed the pen and ink; when I came back, I miſſed them off the floor, and was going up to the little preaty room for to give him the pen and ink; with that the little girl that was in the place, a daughter of mine, ſtops me and bids me not to go up for my life. "Why, ſays I; becauſe ſays ſhe they "are in bed together; upon that I ſays to her, you "lie you devil you, ſure that's Captain Jones and "Mrs. Tighe;" upon that ſhe bid me look over the wall, and ſure enough there I ſees them in bed together, as the little girl told me. And now, Sir, I'll ſay no more about it.

Q. Oh, come my good woman, tell the plain truth; you ſwear you ſaw them in bed together: you have been a married woman, now by virtue of your oath, did you ſee Captain Jones at that time uſe the perſon of Mrs. Tighe with the ſame freedom, and in the ſame manner, a man would his wife?

A. Well, Sir, ſince I muſt ſay it, he did indeed juſt the ſame way.

Q. When did you witneſs this tranſaction?

A. It was towards harveſt twelvemonths; two or three months before Mr. Tighe and ſhe parted; I can't be particular.

Q. Did you ever ſee the Captain and Mrs. Tighe afterwards?

A. Oh yes, Sir; often and often I ſeen them ride out from the hall-door.

Q. He was all this time living at Mr. Tighe's?

A. Yes, Sir; both he and his man kept there.

Croſs examined by Mr. Ponſonby.

Q. Pray, madam, what part of the country are you from?

A. I live in Dunganſtown, county Weſtmeath.

Q. Is

Q. Is that near Mr. Tighe's?

A. It is a good diſtance from it.

Q. Are you a tenant of his?

A. No ſir, I am not.

Q. Were you ever?

A. No ſir.

Q. When was it you were miſtreſs of this hotel you have been a ſpeaking of—are you yet in the ſame buſineſs?

A. I don't follow the public line now, ſir.

Q. Oh! you have retired, no doubt—but pray let me underſtand how you contrived to look through a wall and get a proſpect of this affair about Captain Jones?

A. My daughter and I looked over the wall.

Q. Have you been accuſtomed to ſuch ſights?

A. Yes indeed—I keep a place of the ſort.

Q. What! a brothel?

A. Yes, but not for ſuch quality as them.

Q. You never then before entertained ſuch company?

A. No indeed, ſir—there was no ſuch reſort to my place.

Q. Does this wall you ſpeak of, go up to the roof?

A. No, it does not, ſir.

Q. How high then?

A. It is but a low wall, for I could look over it.

Q. Could your daughter alſo, enjoy the entertainment at the ſame time—could ſhe look over it?

A. She could, ſir.

Q. Of what is this wall built?

A. It is a mud wall, ſir.

Q. Pray ma'am how many children have you?

A. Two little girls, ſir.

Q. How old are they?

A. One little girl is about twelve years old, and the other little girl is about twenty.

Q. This

Q. This little girl about twenty, is a very pretty girl, is ſhe not?

A. She is indeed, ſir.

Q. What's her name?

A. Mary, ſir.

Q. She is a very convenient little girl, is ſhe not?

A. She is indeed, ſir.

Q. Very uſeful to be ſure, and attentive to cuſtomers?

A. She was always a good little girl, ſir.

Q. I knew it—but pray where did you get the pen and ink you ſay you were ſent for?

A. I got it at the ſchool-houſe.

Q. How far was this ſchool-houſe from the mud wall?

A. I can't tell, ſir.

Q. Was it a perch?

A. I can't tell how much that is.

Q. How long would you be going to it—would it take you up what you would call two or three minutes?

A. Aye, about two or three minutes.

Q. Pray, did Captain Jones go to ſchool there?

Mr. Barrington—My good woman, never mind that gentleman, he is hired to confuſe you.

Mr. Ponſonby—If ſo, I'm ſure there never was money more thrown away.

A. Indeed I don't know, perhaps if you'd aſk the maſter he'd tell you.

Q. But what did you do with the pen and ink after you brought it in—did you bring it up to the ſaloon?

A. No, ſir.

Q. Why not?

A. Becauſe I knew they didn't want it.

Q. What became of the horſes all this time?

A. The little girl held them at the door.

Q. Was

Q. Was it the pretty girl that held them—was it Mary?

A. No, ſir, the other little girl.

Q. What became of the man you ſaid rode after them—was he and Miſs Mary enjoying a ſimilar tete-a-tete?

A. No, ſir.

Q. What then?

A. He ſtayed outſide the door, before the cabin, under a big tree from the rain.

Q. Were you paid handſomely for the accommodation?

A. No, ſir.

Q. You were not—that's very extraordinary—did they give you nothing at all?

A. When they were going, he didn't give any thing—but ſhe put her hand in her pocket and went and gave the little girl that held the horſes, half a crown.

Q. So the lady paid?

A. Yes, ſir.

Q. What was Mary doing when they honor'd you with this viſit—how was ſhe employed?

A. She was ſpinning at the wheel, ſir.

Q. Did ſhe continue at it?

A. No ſir; when they came in I bid her ſtop her ſpinning, and go rock the cradle.

Q. Pray, when did you firſt ſpeak of this affair—did you go inſtantly to Mr. Tighe, and tell him what you had ſeen?

A. No indeed, I did not ſir.

Q. What prevented you?

A. I did not like to ſpeak of it.

Q. Very prudent—you ſhut your mouth and kept your mind to yourſelf—was not that it?

A. I never would ſpeak of it only for the little girl.

Q. Did ſhe blab?

A. Indeed

A. Indeed, ſir, very fooliſhly, ſhe ſpoke of it to ſome of the ſervants, though I often told her over and over again to keep it to herſelf.

Q. And do you think it was commendable in you or your daughter, to keep a matter of this ſort a ſecret?

A. I didn't like to ſpeak of it—I thought it was not my buſineſs to breed diſturbance between man and wife.

Q. And this was your reaſon?

A. I didn't like to have any call to it.

Q. Pray have not you given ſome teſtimony about this buſineſs in the Conſiſtory?

A. I don't know what that is.

Q. Have not you already made ſome affidavit out of what you have ſworn on this trial?

A. No, ſir; I made no affidavit about it, and I am very ſorry to be obliged to come about it at all.

Q. Aye, aye—pray now, when Captain Jones and this lady rode up to your place, did you know who they were?

A. O! I did, very well, ſir.

Q. And yet you believed the ſtory he told you about his coming from Connaught—how do you reconcile this?

A. No, I did not believe any ſuch thing, though he ſaid he came from Connaught—I knew he was Captain Jones very well.

Q. Is this pretty daughter of yours in Court.

A. O! ſhe is, ſir—you'll ſee her directly.

Q. Well, you may make room for her; I dare ſay ſhe will favour us with another ſtory.

Mary Gaynor, *produced and examined by* Mr. Ridgeway.

Q. Are you the daughter of Catharine Gaynor, the laſt witneſs.

A. I am, ſir.

Q. Are

Q. Are you acquainted with Mr. Tighe, the plaintiff in thisſuit?

A. Yes, ſir.

Q. For how long?

A. Since I remember any one, I know him and all his family.

Q. I preſume you were alſo acquainted with Mrs. Tighe?

A. I knew her very well, ſir, and often ſeen her in the country.

Q. Did you know Captain Jones, the perſon againſt whom this ſuit is now brought?

A. Yes ſir, I did.

Q. How came you to know him?

A. He uſed to be down in the country; and then I ſeen him.

Q. Where there did you ſee him?

A. It was always at Mr. Tighe's he would be, and then I uſed to ſee him going and coming from the houſe.

Q. He in a manner lived there?

A. Yes, ſir, he kept there very often.

Q. Do you recollect Captain Jones living at Mr. Tighe's, the ſummer before laſt?

A. Yes, ſir; I know he was there the moſt of that ſummer.

Q. Where did you live at that time?

A. With my mother at Ballinavalley, near Caſtle-town Delvin.

Q. Do you remember Captain Jones and Mrs. Tighe riding up to your mother's cabin at any time in that ſummer, and coming in from a ſhower of rain?

A. I do, ſir; it was laſt ſummer was twelvemonth, near harveſt time.

Q. Now tell the Court diſtinctly what took place when Captain Jones and Mrs. Tighe came into your mother's cabin?

A. When they came in he ſat down upon my mother's cheſt and diſcourſed for a while, Mrs. Tighe

Tighe all the time ſtanding at the door; then he went over to her and talked to her, but I could not hear them, having my back to them rocking the child; then he aſked my mother to get him a pen and ink, and told her he came from Connaught, and wanted to write back, and bid the carman to bring ſome things to Dublin that was forgot, and that he would ſend the letter to the next poſt—upon that my mother told him there was not a pen and ink in the place, but that ſhe would try to go out and get him one; with that my mother went out for the pen and ink to the ſchool-houſe, and left me and my ſiſter in the cabin.

Q. What happened while ſhe was away?

A. He went off the floor into the little room, and looked about it, and ſays he to me coming down, "this is a very neat clean little place you have got here my good girl," and ſays he, "this lady is my ſiſter, ſhe and I has rode near 40 miles to-day," and ſays he, "ſhe has got a great head-ache, and is much fatigued from riding, and I would thank you if you would let her lie on the bed in that little room for ſome time to recover herſelf;" with that I told him ſhe might and welcome; upon the ſame he turned about and aſked Mrs. Tighe wouldn't ſhe go and lie on the bed and he would wait for her. I ſeeing him and her laughing, made me look very earneſt at them, with that he takes her by the arm two or three times, preſſing her to go up to the little room; then at laſt ſhe went up. When he brought her up he called to me and bid me go out and ſee if my mother was coming with the pen and ink; with that I got up, but only went to the door, I thinking all the time ſeeing them both laughing, and he preſſing her to go up to the little room, they were on nothing good, and with that I turned in upon the floor again, and looked into the little room over the wall.

Q. Proceed

Q. Proceed, what did you then ſee?

A. Why ſir, they were lying in the bed together.

Q. Did you ſee any indecencies paſs between them?

A. Indeed ſir I'm loth to ſay any more about it.

Q. Come, come, my good girl, you muſt declare all you know; I ſhall only aſk you if you ſaw them in bed together the manner man and wife would be?

A. They were indeed, ſir.

Q. What paſſed when your mother returned with the pen and ink?

A. Why ſir, ſhe was running up with it to them in the little room till I ſtopped her and told her that they were there, and bid her not go.

Q. What was it in particular you told her that prevented her going?

A. I told her they were in bed together, and with that ſhe told me I ly'd, for that it was Captain Jones and Mrs. Tighe, and then I bid her go and look over the wall, and ſo ſhe did, and ſhe and I ſeen them there together.

Q. Did he make any uſe of the pen and ink?

A. I don't know, ſir, I believe not—I believe they left it there.

Q. When Captain Jones and Mrs. Tighe came into your mother's cabin, did you know who they were?

A. I did ſir, certainly—I knew it was Mrs. Tighe and Captain Jones, though I was not then ſure it was Captain Jones.

Q. But you are ſince certain that the gentleman whom you ſaw take all thoſe liberties with Mrs. Tighe was Captain Jones?

A. Very certain, ſir.

Q. Did you ſee him any where after this?

A. I did, ſir, I often ſeen him and Mrs. Tighe ride out together from Mr. Tighe's place after they were in the cabin.

Croſs-examined by Mr. Buſhe.

Q. When did you firſt ſpeak of this affair?

A. I juſt mentioned it to Mr. Tighe's ſervants, and ſo they went and told him.

Q. Aye, but when was this?

A. It was not long ago.

Q. What induced you to keep ſuch a ſecret ſo long?

A. I didn't wiſh to ſpeak of it.

Q. Was it your mother firſt deſired you?

A. No, ſir, it was not? ſhe gave me a great deal of anger for letting on about it, and told me it was not lucky to ſeparate man and wife.

Q. How long ago is this ſince it happened?

A. I don't know ſir what time it happened.

Q. Is it a month or two ago?

A. O ſir, I'm ſure its above 12 months ago now I think of it. It was a month or ſix weeks before Mrs. Tighe and his wife ſeparated; I'm not ſure, I cannot be certain.

Q. And when was that—when did Mr. Tighe ſeparate from his wife?

A. I can't be certain; but I believe it was laſt Michaelmas was a twelvemonth that he went and left her at home.

Q. But what for God's ſake was this thing you ſaw in your mother's chateau?

A. About Captain Jones and Mrs. Tighe.

Q. Juſt ſo; I want you to tell me all about an affair which appears to have ſo far overcome your delicacy as to render your communication of it ſo remarkably confined?

A. I don't like to repeat it over again, ſir, I ſaid it already, ſir, how they were in the little room and that's all.

Q. You have often met with ſuch ſpectacles at your mother's place, yet never took ſuch particular notice before?

A. No

A. No, ſir, I never ſeen any ſuch thing before or ſince at my mother's place.

Q. By virtue of your oath have you never ſeen ſimilar conduct take place between men and women in your mother's houſe?

A. I never did in my life, ſir.

Q. Did not ſhe keep a houſe for the purpoſe?

A. No, ſir; ſhe uſed to ſell a little malt and whiſkey.

Q. Are you not in that line yourſelf?

A. I don't underſtand you, ſir—in what line?

Q. Come, come, I'll not preſs you—pray did Captain Jones and this lady you ſpeak of call for a dram when they came in?

A. They did not, ſir, call for any thing ſir but the pen and ink.

Q. And what brought them to your mother's houſe?

A. They came in out of the rain, ſir.

Q. Was it a ſpring or a ſummer's day?

A. I believe it was near harveſt in ſummer.

Q. Was it the lady or gentleman that aſked for the pen and ink?

A. It was Captain Jones, ſir.

Q. Where was your mother all this time?

A. She went for the pen and ink.

Q. And did not return until they went away?

A. Oh! ſhe did ſo, ſir—they only juſt went off the floor into the little room when ſhe came in.

Q. Did you ſend her ſtraight up with the pen and ink?

A. No, ſir, I bid her not go up.

Q. Why did you do ſo—tell me what was your reaſon in preventiug her from going up with the pen and ink as ſhe was ſent for it?

A. I can't tell, ſir, I did not think it was fit to go up.

Q. I underſtand

Q. Underſtand you, you thought it it highly improper to interrupt the amuſement then going forward; was not that your reaſon?

A. I don't know, Sir; I am aſhamed to ſay any thing about it.

Q. Aſhamed! after what you have already told us; but you were not encumbered with ſuch nice delicacy when clambering up the mud wall to obtain a peep at this unſeemly pice of buſineſs; and you found ſuch amuſement, *not novelty*, in the ſcene, that you coaxed your mother alſo to indulge herſelf in the pleaſing contemplation; was not that the caſe?

A. I don't know what you mean, Sir; I and my mother looked in, when ſhe would not believe me.

Q. I perceive, "ſeing is believing;" is it not. But how could a modeſt virtuous girl, like you, ſtand by and ſee ſuch a thing; but of all things how could you prevail on your mother to be equally immodeſt?

A. Indeed, Sir, I can't anſwer you; I went to look firſt, and then my mother went to look.

Q. So I ſay; but pray was it through the wall, or over the houſe, you were regaled with this proſpect?

A. We looked over the wall, Sir.

Q. What wall; had you a ladder?

A. No, Sir; we juſt looked over.

Q. You muſt have made very extraordinary exertion to do ſo; pray deſcribe to me the ſituation of this wall. I ſuppoſe it was the grand partition or diviſion that ſeparated the inner apartments from the hall?

A. It was the wall, Sir, that was built up for the potatoes and the bed.

Q. I perceive it was very convenient for many purpoſes; there was a ſnug cloſet or two behind this potatoe-wall, was not there?

A. No,

A. No, Sir, there was no closet behind it; nothing but the room.

Q. Were there hangings to the bed that was placed in this inner apartment?

A. No, Sir; it was a flat bed, and there was no curtains.

Q. You might see the bed, the room and every thing else in this apartment, by just standing at the door, without troubling yourself to come into the hall.

A. Oh no, Sir; no one could see it without looking in.

Q. Then you tried; this wall was very high, was it not?

A No, Sir.

Q. How high was it; was it twice the heighth of a man, or did it only reach up to your eye-brows?

A. I could see over it very well, Sir.

Q. Then it just saved its distance. But pray was not there a servant riding after the Captain and this enamorata of his, when they came in?

A. Yes, Sir, there was.

Q. What became of him, how did he employ himself?

A. I cannot tell you, Sir.

Q. Was his entertainment left to you?

A. No, Sir; I gave him no entertainment.

Q. You and he had no particular tete-â-tete; nothing snug between yourselves?

A. I had nothing to do with him, Sir.

Q. At that time?

A. No, Sir, or at any other time.

Q. You were right; but tell me, Mary, how was he employed; holding the horses, no doubt?

A. No, Sir, my sister had the horses, I don't know where he was; but I heard my mother saying he was out from the rain under the tree before the cabin.

Q. Had

Q. Had not you the politeneſs to aſk him in?

A. No, Sir; I knew nothing at all about him.

Q. I ſee—you kept him at a proper diſtance; but pray, Mary, who paid the reckoning?

A. There was no reckoning, Sir; nor nothing drank, they did not order a ſingle drop.

Q. No; now between ourſelves, don't you think it was but a dry piece of buſineſs after all; was there nothing at all paid; did they even pay for the apartment in a genteel manner?

A. No, Sir; there was no payment aſked from them.

Q. You ſent in no bill; but tell me did he put his hand in his pocket, and——did—you know, Mary, what's uſual on theſe occaſions?

A. No, Sir; he did not give one ſingle farthing. But ſhe, indeed, put her hand in her pocket, and went over and gave the little girl half a crown.

Q. It was the lady did this?

A. Yes, Sir, it was Mrs. Tighe.

Q. And ſo there was an end of the viſit?

A. That was all, Sir.

Q. Pray have you not given evidence ſome where elſe about this buſineſs?

A. No, Sir; this is the only time I made oath about it; and I hope it will be the laſt.

Q. Well, Mary, I'm done with you for the preſent.

John Gray *examined by Mr. Curran.*

Q. What line of life are you in, Mr. Gray?

A. A ſervant, Sir.

Q. Pray where did you live in the year 1799?

A. I lived with Mr. Wade of Clonabreny, in the county of Meath.

Q. In what ſtation?

A. As a foot-man, Sir.

Q. Are you acquainted with Mr. Tighe, the gentleman who has brought this ſuit?

A. Yes, Sir.

Q. For how long?

A. I have known him, Sir, above two years.

Q. Was he any relation to Mr. Wade?

A. He was, Sir; he was married to his daughter.

Q. What was her name?

A. I believe Eſther, Sir; I'm not ſure; ſhe was the eldeſt.

Q. Did you know Captain Jones, againſt whom this action has been brought by Mr. Tighe?

A. I do, Sir.

Q. Where did you firſt know him?

A. I uſed to ſee him at Clonabreny.

Q. Did he viſit there?

A. He did, Sir, very often.

Q. You ſay his viſits were frequent: he was then in the habit of ſpending ſome time in the family?

A. He would, Sir; he and his man uſed to be there, living and ſleeping every other week.

Q. Pray, Sir, have you often ſeen Mr. Wades's ſon in-law, Mr. Tighe, and his lady at Clonabreny?

A. Yes, Sir, they uſed to be there very often.

Q. Where did they live?

A. At South-Hill, in the county of Weſtmeath.

Q. Do you recollect Mrs. Tighe's being drove alone in her carriage from South-Hill to Clonabreny any time in the ſummer of 1799?

A. I do, Sir; ſhe was very often drove alone over to Clonabreny.

Q. Do you recollect any thing particular happening on any of theſe occaſions?

A Yes, Sir.

Q. When?

A. Its now about a year laſt May.

Q. Speak up and inform the Court of this matter, which you ſay engaged your obſervation?

A. I de-

A. I declare, ſir, I almoſt now forget the particulars, but as well as I can recollect I'll mention all that I know of the matter.

Q. Go on, ſir, without further preface?

A. Shortly after Mrs. Tighe came in out of the carriage that drove her from South-hill to Clonabreny, ſhe run up the great ſtairs, and at the ſame time Captain Jones went up the back ſtairs, when I ſeen this I took the coachman, William Kilfoyle one ſide, and ſays I to him, Billy ſays I (telling him what I ſeen) now go up the ſtairs to the lobby and watch what you may ſee between your miſtreſs and the Captain, and I'll go into the yard; with that Billy goes up to the lobby as I bid him, and I went into the yard.

Q. Be as preciſe as poſſible, my good friend—proceed and tell the court what you ſaw yourſelf without minding Billy?

A. Well, ſir, I'm going to tell you that I went into the yard and could ſee through the large window into the lobby at the head of the ſtairs, and I ſeen the Captain going into his bed-chamber—then immediately Mrs. Tighe walked after him into the Captain's bed-chamber and ſhut the door after her; I ſtood looking all the time, and in about ten minutes or thereabouts I ſeen her plainly come out again, go into her dreſſing-room on the ſame floor with the bed-chamber, and run to the looking-glaſs in her dreſſing-room and there ſettling her handkerchief it being greatly tumbled.

Q. Did any thing elſe occur?

A. Yes, ſir, Mrs. Tighe immediately afterwards ſent down her habit to be bruſhed.

Q. Did you ever before or after notice a ſimilar conduct in Mrs. Tighe and Captain Jones?

A. I did, ſir—I ſeen them repeatedly doing the ſame thing.

Q. How do you mean?

A. Why

A. Why, ſir, I often ſeen Captain Jones going up the back ſtairs, while Mrs. Tighe went up the front ſtairs; then they would meet on the lobby and regularly go into a bed-chamber, and there remain ſhut up ten or fifteen minutes.

Q. And what did you think of all this—had you any ſuſpicion that their purpoſe in remaining thus ſhut up was a criminal one?

A. I was very certain it was for no other purpoſe.

Q. Was their behaviour in other reſpects free from ſuſpicion?

A. Indeed I can't ſay it was, ſir, for I uſed to ſee them for ever walking arm and arm together, never but wiſhing to be together riding or otherwiſe, and often I ſeen him ſqueezing and preſſing her hand.

Q. Were you the only perſon who entertained any ſuſpicion of them?

A. No, ſir, for all the ſervants both old and young at Clonabreny and South-hill all knew or ſuſpected it.

Juryman. Pray was it from the yard through the large window you always ſaw Captain Jones and Mrs. Tighe meet on the lobby and go into a bed-chamber?

A. Yes, ſir, I uſed to go there and ſee them; and ſometimes as I might happen to go up or down ſtairs I would ſee them.

Q. You have no heſitation in declaring that you were fully convinced that thoſe meetings and adjournments hou have ſtated to have taken place between Mrs. Tighe and Captain Jones were of a criminal nature?

A. I'm very well convinced they were of that nature from what I ſaw and heard.

Q. Does Mr. Wade live at Clonabreny now?

A. No, ſir; he and his family went to live ſome time ſince to England.

Q. On what account did you hear?

A. I heard

A. I heard it ſaid he went there from grief of his daughter's behaviour with Captain Jones.

Q. Has he ſold his property at Clonabreny?

A. I declare, ſir, I can't tell; I believe the houſe is ſet to Mr. Daniel.

Croſs-examined by Mr. Buſhe.

Q. You are a ſervant I underſtand; turn your face this way, where do you live now?

A. With Mr. Tighe.

Q. Are you his groom?

A. No ſir, I act as butler.

Q. How long have you acted this part?

A. I forget now when I came to live with him—I believe I am a year or thereabouts with him.

Q. How much wages did he pay you before you came to him?

A. He paid me no wages, ſir, before I came to him.

Q. Nor promiſed? be cautious.

A. No indeed, ſir, he neither promiſed or paid it.

Q. It was in conſequence of your giving out you could tell ſomething of this affair that you obtained this birth?

A. No, ſir; he hired me when I left Mr. Wade.

Q. Indeed I perceive Mr. Wade has endorſed all his ſervants over to Mr. Tighe, but pray were you one of the witneſſes examined by Lord Weſtmeath?

A. Yes, ſir, I made affidavit of all I knew before him.

Q. Was it before or after you made this affidavit that Mr. Tighe hired you?

A. It was after, ſir.

Q. And he has kept you ever ſince?

A. Yes, ſir, I have lived in his ſervice ever ſince I left Mr. Wade.

Q. How long ago was that?

A. I can't recollect particularly, ſir.

Q. Do

Q. Do you remember what you ſwore before Lord Weſtmeath?

A. I don't recollect it now—this I'm ſure it was nothing but the truth I ſwore.

Q. Oh, certainly! but what was it you ſwore?

A. I proteſt, ſir, I cant remember the particulars of it.

Q. Can you ſay whether it was the ſame or any thing like what you ſwore here to-day?

A. I cannot, ſir—I believe it was the ſame; it is impoſſible for me to recollect exactly.

Q. Can you favour the court and jury with no extract from it?

A. No, ſir; I don't know the meaning of that.

Q. Now, ſir, how is this you contrived to watch your maſter's wife and Captain Jones; was that part of your buſineſs?

A. Becauſe I ſuſpected them I watched them.

Q. Was it for your amuſement you did ſo?

A. No, ſir—it was no diverſion to me; I only wanted to find out if it was really the fact that they were great or not.

Q. And did you ſucceed?

A. I ſaw them, ſir, as I ſaid before, often meet on the lobby, and then go into the bed-chamber one after the other and they ſhut up.

Q. Was it from the kitchen you made thoſe obſervations?

A. No, ſir.

Q. From the drawing-room then?

A. No, ſir, it was out of the yard I ſeen them.

Q. Out of the yard!—how?

A. I could ſee them, ſir, quite eaſy through the large window.

Q. What!—you could ſee them out of the yard through this window you ſpeak of, go up ſeparate flights of ſtairs, croſs each other on the lobby, change ſides, the lady to her dreſſing-room and the gentleman

to

to his chamber, ſo that the ſame window accommodated you with the knowledge not only of every thing that paſſed in the dreſſing-room but alſo in the bed-chamber, though I ſuppoſe you forgot you mentioned that they always took the precaution of faſtening the door; how did all this come to paſs?

A. It was a large window, ſir.

Q. Yet not equal in magnitude to your imagination; what friend, was the rere of the honſe one entire ſaſh—was it perfectly tranſparent?

A. No ſuch thing.

Q. I proteſt my good friend, it's perfectly myſterious to me by what optical powers you could become maſter of ſuch valuable information; be ſo condeſcending to condenſe it; deſcribe the ſituation of this unlucky reflector—did you look through two windows?

A. No, ſir; the window is very large and commands the view of the lobby and ſtair-caſe and all the rooms on that ſtory where the dreſſing-room and bed-chamber was, ſo that I could ſee every thing that happened quite plain.

Q. Your powers of viſion were truly amazing! pray did you give the ſame identical deſcription of this window in the conſiſtorial buſineſs?

A. I believe, ſir, I did; I told how it was that I ſeen them, I ſuppoſe they entered it down, I could'nt make a miſtake about it.

Q. I'll engage there was little fear of that; but pray was all the reſt you ſwore on that occaſion juſt the ſame you have ſworn now—can you charge your memory with any little difference?

A. I don't know, ſir, unleſs I read it over again, but I'm ſure there was not a ſentence but the truth in it—I can't ſay in particular what it was all I knew about the matter I told him.

Q. Are you equally confined in your knowledge of the young lady who I hear is now the object of

your

your maſter's addreſſes, juſt waiting to get over this troubleſome divorce buſineſs to have the matter ſnugly concluded—I ſay have you the honour of her acquaintance?

A. I don't know any lady he's courting, ſir—I'm ſure if there was ſuch a thing I would know it.

Q. You're certainly a ſharp fellow; but tell me John, are you not convinced that if your maſter ſhould miſs of getting this verdict you came about, all would be loſt! he could get no divorce—don't you know how that is?

A. Not I, ſir; I don't comprehend them things.

Q. I ſee. Well my good friend I have done with you.

Mr. Curran.—My Lord, we reſt our caſe.

Mr. Ponſonby, in a ſtatement of an hour and three quarters in delivery, which we ſincerely regret our limits cannot permit an inſertion in detail, and which, for brilliancy of eloquence and marked perſpicuity, we have never ſeen exceeded, if perhaps equalled here, roſe and addreſſed the Court. After expatiating at large on the ſeveral points of the plaintiff's caſe, flying with aſtoniſhing and truly perſuaſive powers of oratory to the various minutiæ of the evidence as delivered, contraſting that evidence with the caſe endeavoured to be ſupported by the plaintiff, exhibiting in the vivid glow of animated elocution and extenſive imagination, the groſs improbability of the ſtory attempted to be impoſed on them. He called upon the jury, as honeſt and impartial men, by their verdict to acquit his client of a crime, for which there was no proof but of that ſort which in its nature was ſo abſurd and ſo improbable as was not to be credited, not merely with reſpect to its circumſtances as delivered, but as proceeding from wretches of the moſt deſpicable deſcription he had ever ſeen upon their oaths in a court of juſtice. In the ſame happy

ſtrain

ſtrain of ingenious declamation of which it is in vain for us to attempt a deſcription, Mr. Ponſonby in concluſion addreſſed the ſituation of his client to the diſpaſſionate examination of his jurors, imploring their humane conſideration of it, and, if indeed they did find a verdict of damages, that at leaſt it would be ſo guided by their diſcretion, that the perpetual impriſonment or expatriation of his client might not be the reſult.

The following witneſſes were then produced on behalf of the defendant.

John Hull *produced, and examined by Mr. Buſhe.*

Q. Did you know Captain Jones the gentleman againſt whom this action has been brought?

A. I did, ſir.

Q. How were you acquainted with him?

A. I was his ſervant.

Q. How long did you live with him?

A. I ſerved him, ſir, for ſeveral years.

Q. Were you his ſervant in the year 1799?

A. I was, ſir.

Q. Do you know a perſon of the name of John Carlan?

A. I do, ſir.

Q. What is he?

A. He was formerly butler to Mr. Wade of Clonabreny, but I believe he lives now with Mr. Tighe.

Q. Do you recollect your ever having any converſation with him about Captain Jones and Mrs. Tighe?

A. No, never, ſir, and we were very well acquainted.

Q. By virtue of your oath recollect if you ever told John Carlan there was a criminal connexion between Mrs. Tighe and Captain Jones?

A. By virtue of my oath, ſir, I never did.

Q. Where is Captain Jones now?

A. He ſailed off out of this about laſt Auguſt, to go on foreign ſervice, and he's not yet returned.

Q. Where

Q. Where did you hear he was laſt?

A. I forget the place now, but I believe its Gibralter.

Croſs-examined by Mr. Moore.

Q. With whom do you live now, ſir?

A. I live with Mr. Arthur Jones of Britain-ſtreet.

Q. Is he any relation of your former maſter, Capt. Dive Jones?

A. He is, ſir, he's his brother.

Q. You have ſworn you lived with Captain Jones in the year 1799, and ſome time before; now, ſir, have you not often carried letters from the Captain to Mrs. Tighe and from Mrs. Tighe to him?

A. I did not, ſir; I never brought any ſuch letters, but I recollect her ſending me down once by her maid ſome letters, and ſhe gave me a ſeven ſhilling piece.

Q. Now, ſir, by virtue of your oath, was'nt one of thoſe letters directed to Captain Jones or delivered to him;

A. They were not, I aſſure you, ſir, there was two of them for the poſt-office and the other directed to ſome one elſe in Dublin, I really forget the name. I can't read myſelf, but I'm poſitive there was not one of them for my maſter.

Q. But for what purpoſe did you get a ſeven ſhilling piece with thoſe letters, could it be merely for your trouble in leaving them in the poſt-office?

A. I ſuppoſe it was, ſir, I don't know any other reaſon.

Q. It was not to enjoin your ſecrecy and inſure the ſafe delivery of the letters?

A. No, ſir, her maid juſt handed me the ſeven ſhilling piece as ſhe gave me the letters.

Q. Without any injunction or directions as to the manner you ſhould diſpoſe of them—did you know who ſent you the money?

A. I ſuppoſe it was Mrs. Tighe.

Q. So

Q. So ſhe gave you a ſeven ſhilling piece, merely for the great trouble and fatigue you muſt have undergone in putting a letter or two in the poſt-office; pray, did you ever hear of any writ being out againſt Captain Jones when you lived with him, on account of this buſineſs.

A. Never, ſir; I never heard of any writ being againſt him.

Q. Take care my good lad, you are on your oath: now, ſir, did you never know of his being on his keeping, for fear of being arreſted at Mr. Tighe's ſuit?

A. No, ſir; he never was on his keeping.

Q. Now, don't you know that your preſent maſter, Mr. Arthur Jones, was actually arreſted at Mr. Tighe's ſuit, in Summer-hill, in a miſtake for his brother?

A. I believe he was, ſir.

Q. And don't you know from that circumſtance, that Captain Jones was abſconding from place to place, from the apprehenſion of being taken?

A. No, ſir, he was not hiding; he was walking and riding about publicly, all the time he remained in this country.

Mr. Barrington—Now, friend, don't you know that Captain Jones was hiding in Wexford, from the dread of being arreſted at Mr. Tighe's ſuit?

A. He was not, ſir—he appeared and rode out publicly, and hunted about the country every day while he was in Wexford.

Q. Be cautious of what you ſay my good lad—have ſome regard to the oath you have taken—I ſay, I was in Wexford at the time, and I ſaw Captain Jones there, and I know that what you now aſſert is abſolutely untrue—I alſo ſaw you there?

A. I declare, ſir, I can't ſay; but I'm ſure he uſed to be out hunting every day.

Q. Do you think John Carlan is a man to be believed on his oath?

A. I think he is, ſir.

Major Jones, *produced and examined by* Mr. Buſhe.

Q. Do you know Captain Dive Jones, the defendant in this action?

A. I do, ſir.

Q. What ſituation of life is he in?

A. He's a Captain in a marching regiment.

Q. Is he a man of property?

A. No, ſir—he's not even in the receipt of the full amount of his pay.

Q. From what reaſon?

A. He has been obliged to charge his commiſſion with 40l. a-year, to clear off ſeveral debts he contracted.

Q. And this is his pecuniary ſituation?

A. I know of no other property he has.

Q. Where is Captain Jones at preſent?

A. He is, I believe, at Gibralter; he was on the ſecret expedition at Ferroll.

Croſs-examined by Mr. Moore.

Q. Pray, Major Jones, are you any relation of Captain Jones, the gentleman who is defendant in this ſuit?

A. His father, ſir.

Q. Is not Captain Jones your eldeſt ſon?

A. He is, ſir.

Q. And entitled to a property of 600l., a-year at your deceaſe?

A. He may be entitled to a property at my deceaſe.

Q. Has he not alſo ſome very handſome expectations from his uncle, the Rev. Dive Downes?

A. I cannot ſay, ſir, particularly—I'm really unacquainted with any tranſactions that may have occurred between him and his uncle.

Q. Is not Mrs. Jones, your lady, lately dead?

A. She is, ſir.

Q. She

Q. She was an heireſs, and having it in her power to diſpoſe of a conſiderable property, applied the whole, or the greater part, in a bequeſt to her eldeſt ſon—is that the caſe?

A. Not ſo, ſir—there were truſtees, ſir; her brother, Dr. Downes, was one of them; and the property divided among ſeveral children: I declare, I cannot exactly juſt now mention, with correctneſs, the particular diſpoſitions of the property—there were tranſactions between my ſon and his uncle, to which I am an utter ſtranger, and never interfered.

Q. Was your ſon and this unhappy lady related?

A. They were ſecond couſins; and that accounts, gentlemen, for the great intimacy that ſubſiſted between him and her father, and huſband's family.

Q. Were Mr. Tighe and your ſon ſchool-fellows?

A. I really cannot tell.

Q. Do you recollect their being at the ſame ſchool in Drogheda?

A. No, ſir; but I recollect my ſon going to ſchool there; I don't believe they were ſchool-fellows.

Q. Pray, Major Jones, have you heard that Mr. Wade, the father of this unfortunate woman, has diſpoſed of his place at Clonabreny, and gone to reſide in England?

A. I did, ſir.

Q. Was it for any reaſon that you know of, he did ſo?

A. I really believe he went there on account of this unfortunate affair between Mrs. Tighe and my ſon.

Mr. Moore—I proteſt, ſir, that's ſo extremely fair and candid, that I ſhall not aſk you another queſtion?

Witneſs—The laſt place I ſaw Mr. Wade, was in Dame-ſtreet, before he went to England; he and I accidentally

accidentally met, for ſince this unfortunate affair, I have been but little connected with his family—I never liked to interfere about the matter.

Mr. Burroughs then roſe, and in an addreſs to the jury of conſiderable length, with infinite ability and no leſs energy, followed Mr. Ponſonby through an inveſtigation of the plaintiff's caſe, and the evidence delivered, adducing by pertinent obſervations on their ſuſpicious inconſiſtency ſuch reaſons as he had no doubt muſt operate on their minds the cleareſt conviction of the innocence of his client, whom he ſtated to be a young man poſſeſſing no property, no reſources but thoſe of glory, acquired in the honourable employment of ſerving his country as a brave and experienced ſoldier. He was now on this ſervice in a foreign climate, and had it not in his power by his preſence, or by his means, to furniſh his counſel with ſuch inſtructions and documents for his defence as muſt at once inſure him their verdict. If damages were the object of the plaintiff, he could not here meet with them, the only income which his client poſſeſſed, and which he derived from his profeſſional ſituation being long ſince mortgaged; under thoſe circumſtances he would not heſitate to hope, that they would, as honeſt and impartial men, by their verdict, reſcue him from that utter ruin which was the object of this ſuit.

Mr. Barrington here roſe, and in a torrent of manly and convincing eloquence, re-capitulated and commented at large on the whole of the evidence adduced on both ſides, impreſſed upon the jury that the morals of ſociety and thoſe ties which unite them together, were that day attempted to be ſeparated by the ſophiſtry of counſel.—It was not, he ſaid, the caſe of an injured man they were met to try—it was not the complaint of Robert Tighe—it was the caſe of ſociety as it regarded the peace of

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the world. It was with them to make an example of a vice which at once deſtroyed and diſtracted the happineſs of civil ſociety—of private life—it was their own caſe. That they muſt have liſtened with delight in one view, but abhorrence on the other to that maſterly but ſpecious eloquence which had flowed in the defence of this crime, to cloak the caſe, to work upon their feelings by the impreſſion of thoſe talents, and to hide the ſerpent from their view.

Mr. Barrington in his uſual impreſſive and argumentative ſtyle, then proceeded to the examination of the nature and principles of that defence which was ſet up to this action, and which he utterly condemned; dwelt at conſiderable length on the chain of ſeduction which was obvious and peculiarly aggravating in this caſe—on the deplorable and deſerted ſituation of his client's child—the ſtigma which the conduct of her mother muſt ever attach to her—the vulgar but certain prejudices which would accompany her through life and prevent her advancement to that ſtate of diſtinction which was her birth-right—that no conſideration whatever ſhould be paid to the pecuniary means or ſituation in life of the perpetrator of this injury, it was not the queſtion or an object for their enquiry;—cited the caſes of Macarthy and Mrs. Travers, Fay and Barber. In the former the ſeduction was plainly proved to proceed from a miſtreſs to her ſervant; yet the jury viewing only the crime, not its ſource, gave £1000 damages. In the latter the defendant was proved to be a bankrupt, but held to be no rule to the meaſure of damages, which were dealt out with a marked abhorrence of the crime—and that in this caſe ſociety would ſuffer if by heavy damages they did not give the public that ſatisfaction which the enormity of the injury peremptorily demanded.

LORD KILWARDEN,

Gentlemen of the Jury,

THIS is an action brought by the Plaintiff againſt the Defendant, to recover damages for a criminal converſation with his wife; the damages are laid at £20,000—beyond that you cannot go.

The defendant by the defence ſet up to this action, has artfully endeavoured to make an impreſſion on you. It is your duty to conſider the evidence, and in the preſence of God to find a verdict according to the law of this land adminiſtered while you are in the box and I am on the bench. It is unneceſſary for me to occupy your time in going over the full extent and particulars of the teſtimony which you have heard, and I ſhall therefore confine myſelf to thoſe prominent facts which that teſtimony diſcloſes. [His Lordſhip here in an able, conciſe, and impartial manner recapitulated the material points of the evidence produced, and continued.]

Gentlemen, it is apparent that the defendant in this cauſe from the time which has elapſed ſince the commencement of this action, has been aſhamed to take defence, and, without leaving an appearance, went abroad to baffle his adverſary. It is idle and inſulting in the extreme to your underſtanding and to mine, to be told, that becauſe the defendant is a Captain in the army, and abroad in the ſervice of his country, he cannot attend to the defence of this action; why, gentlemen, no man can do ſo great a ſervice to his country as by obſerving a moral conduct, and by rendering himſelf amenable to its laws. It is equally ſuperfluous for me to take up your time in enquiring whether if he was preſent he could make a ſufficient defence or not—I am not to alter the law of the land. The obſervations of his counſel on the evidence adduced here, and the ſtatement you have heard, on his behalf have been their duty

to

to make; but it is impoſſible in my mind to remove that impreſſion and due conviction, which that evidence carries. It cannot with truth or juſtice be ſaid, that this action has been precipitately preſſed forward on the defendant; when, if he ever meant to meet it in a court of juſtice, he would have long ſince done ſo; and when it is conſidered that if the defendant had died, the plaintiff would loſe his cauſe of action. But, Gentlemen, put aſide all conſideration to thoſe obſervations, and try the iſſue. In the examination of this caſe, three queſtions preſent themſelves;—one is, If the adultery was committed—the ſecond, If it was committed, was it with the plaintiff's knowledge, concurrence or conſent—and the third queſtion is, If the adultery has been committed under ſuch circumſtances as entitle the plaintiff to a recompenſe in the nature of damages, what by your verdict ſhall be their amount?

With reſpect to the firſt queſtion, there are five witneſſes to the fact; and unleſs you ſhall refuſe crediting every one of them, and that you had no right to believe them, you cannot give your verdict for the defendant. Thoſe witneſſes ſtand unimpeached and uncontradicted, notwithſtanding the utmoſt exerciſe of the talents of counſel in their croſs examination. It is true, that Carlan, one of thoſe witneſſes, has been directly contradicted by Hull, a witneſs for the defendant, tho' he admitted Carlan was a man to be believed on his oath, as I have already obſerved to you, and it is with you, from the general tenor of their teſtimony, to reject or believe either of them; ſo that, Gentlemen, if you ſhall on this account, even think proper not to believe the evidence of Carlan, there yet remains ſuch deciſive teſtimony, as leaves the fact of adultery fully eſtabliſhed. With reſpect to the ſecond queſtion, it appears beyond a ſhadow of doubt, that the adultery in this caſe was committed without the privity, knowledge or concurrence of the huſband. Nothing can

be

be collected or inferred from the caſe and evidence of either party, to warrant the leaſt ſuppoſition to the reverſe. Therefore the object of the third queſtion is, an endeavour to aſcertain, under theſe circumſtances, what damages the plaintiff has ſuſtained, and ought to receive, as a recompenſe for the ſeduction and adultery of his wife.

His Lordſhip then (after citing a caſe of adultery tried at Guildhall within his knowledge, where the parties were of high rank, the lady being a counteſs, applicable to the preſent caſe) with ſentiments which do equal honour to that deſervedly exalted ſituation which he holds, and to his heart as a moral member of ſociety, went into an examination of the nature and conſequence of the injury in queſtion; and as to that which the plaintiff in this caſe had ſuſtained from the ſame ſource. And concluded with ſolemnly recommending to the jury to diveſt themſelves of all impreſſions which they might have received from the captivating eloquence of the counſel on either ſide, to try the iſſue for which they were ſworn, with that cool impartiality and deliberation, which its importance merited; and to give that verdict in the preſence of God and of their country, which they ſhould in their conſcience from the evidence conceive to be right.

The jury retired a few minutes after ſeven o'clock, and within a quarter of eight returned a verdict for the plaintiff—*Ten Thouſand Pounds* damages and *Sixpence* coſts.

Mr. *Ridgeway*. I pray your Lordſhip to record that verdict.

Lord *Kilwarden*. That I ſhall with pleaſure.

FINIS.

8. A6 C.
1/16/06